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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,973	11/29/2005	Ingo Kalliske	076326-0312	1628
23428 7590 04/02/2008 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007				
EXAMINER				
GOODEN JR, BARRY J				
ART UNIT		PAPER NUMBER		
3616				
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04/02/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/552,973

Applicant(s)

KALLISKE ET AL.

Examiner

BARRY J. GOODEN JR

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-854/IC)
Paper No(s)/Mail Date See Continuation Sheet
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Attachment(s) 3). Information Disclosure Statement(s) (PTO/SB/08), Paper No(s)/Mail Date :10/11/05, 9/28/06, 2/9/07 & 1/11/08.

DETAILED ACTION

This office action is in response to the preliminary amendment filed October 11, 2005. Currently claims 20-39 are pending. Claims 1-19 are cancelled. Claims 20-39 are new.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 32 and 33 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In the instant case, "transparent airbag" and "transparent woven fabric" acting as reinforcement mechanisms does not appear to be supported. Moreover, the subject matter is not described in the specification in such a way so as to be enabling.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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5. Claim 39 recites the limitation "the first mentioned chamber" in line 2 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 20-24 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Naoyuki et al, JP 2000-264146.

In regards to claims 20-24, 38, and 39, as best understood, Naoyuki et al. discloses all of the claimed elements including a motor vehicle safety device for protecting pedestrians and cyclists comprising:

an airbag that is configured to be arranged under a hingedly connected hood (12) of the vehicle (Reference is made to Figures 1-3); and

a gas generator (11) connected to the airbag;

wherein, during inflation, the airbag is configured to lift at least a portion of the hood such that a section of the airbag can thereafter unfold onto an A-pillar and a lower portion of a windshield of the vehicle (Reference is made to Figures 1-3);

wherein, when unfolded, the airbag is configured to include a chamber located below the hood in the vicinity of one of the hinges of the hood, and a lateral end of the

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airbag, which is configured to cover the A-pillar, points upward (Reference is made to Figures 2-4 and 10); and,

wherein the airbag section, which is configured to unfold onto the A-pillar, is fixed by a restraining member to prevent lateral displacement (10,54,and Reference is made to Figure 10);

wherein the airbag is configured so that, when inflated, the airbag extends over the entire width of the vehicle into a position in front of both A-pillars (Reference is made to Figures 4 and 10);

wherein the restraining member is an intercepting strap (10, 54);

wherein the restraining member is a tube-shaped airbag (Reference is made to top portion of airbag 53, Figure 10);

wherein the restraining member is an intercepting strap or a tube-like airbag that connects the lateral ends of the airbag together (Reference is made to Figure 10);

wherein the airbag is subdivided into at least four chambers by tucks and/or dividing walls;

wherein the airbag comprises a chamber (upper chamber) configured so that a volume can be displaced between two chambers (lateral chambers) for energy absorption.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claim 36 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al.

In regards to claim 36, Naoyuki et al. discloses all of the claimed elements excluding an inflation fluid feed line.

It is old and well known in the art to connect a gas generator to an airbag via a fluid feed line so as to increase the flexibility a designer has when considering where to place the gas generator within the vehicle. As such, it would have been obvious to one of ordinary skill in the art at the time of invention to try to modify the device of Naoyuki et al. so as to achieve the expected result of increasing the flexibility of placement with respect to the gas generator within the vehicle confines.

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11. Claims 25-28, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al. in view of Takimoto, EP 1350692.

In regards to claims 25-28, 30, and 31, Naoyuki et al. discloses all of the claimed elements except intercepting straps.

Takimoto teaches intercepting straps including:

wherein the restraining member includes a pair of intercepting straps or tube-like airbags;

wherein a first of the pair of intercepting straps or tube-like airbags connects a first lateral end of the airbag to a central portion of the airbag; and

wherein a second of the pair of intercepting straps or tube-like airbags connects a second lateral end of the airbag to the central portion of the airbag that is located below the hood and on an opposite, first side of the vehicle.

wherein the restraining member includes a pair of intercepting straps or tube-like airbags;

wherein a first end of a first of the pair of intercepting straps or tube-like airbags is connected to a first lateral end of the airbag and a second end of the first of the pair of intercepting straps or tube-like airbags is connected to the vehicle (via the central portion of the airbag); and,

wherein a first end of a second of the pair of intercepting straps or tube-like airbags is connected to a second lateral end of the airbag and a second end of the second of the pair of intercepting straps or tube-like airbags is connected to the vehicle (via a central portion of the airbag);

wherein the second ends of the intercepting straps or tube-like airbags are connected to a central section of a module housing (via the central portion of the airbag) that is part of the vehicle and is located below the hood (Reference is made to Figure 3);

further comprising a reinforcement mechanism provided in the vicinity of each of the lateral ends of the airbag (Reference is made to Figure 2);

wherein the reinforcement mechanism is a seam (16).

Naoyuki et al. in view of Takimoto discloses the claimed invention except for the second ends of the intercepting straps being connected to the module housing or a portion of the airbag below the hood and on an opposite side from the first ends. It would have been obvious to one having ordinary skill in the art at the time the invention was made to try to locate the second ends of the straps thusly, since it has been held that rearranging parts of an invention involves only routine skill in the art and since it would achieve the expected result of securing the and positioning the lateral ends of the airbag relative to the second ends of the intercepting strap connection points.

12. Claims 27 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al. in view of Kikuchi et al., DE 10316828.

In regards to claims 27 and 29, Naoyuki et al. discloses all of the claimed elements except intercepting straps.

Kikuchi et al. teaches intercepting straps including:

wherein the restraining member includes a pair of intercepting straps or tube-like airbags;

wherein a first end of a first of the pair of intercepting straps or tube-like airbags is connected to a first lateral end of the airbag and a second end of the first of the pair of intercepting straps or tube-like airbags is connected to the vehicle; and,

wherein a first end of a second of the pair of intercepting straps or tube-like airbags is connected to a second lateral end of the airbag and a second end of the second of the pair of intercepting straps or tube-like airbags is connected to the vehicle (Reference is made to Figures 5 and 6a);

wherein the restraining member includes two pairs of intercepting straps or tube-like airbags;

wherein a first (one side of the vehicle) of the two pairs of intercepting straps or tube-like airbags restrains inner and outer sides of a first lateral end of the airbag; and,

wherein a second (other side of the vehicle) of the two pairs of intercepting straps or tube-like airbags restrains inner and outer sides of a second lateral end of the airbag.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to try to modify the safety device of Naoyuki et al. in view of the teachings of Kikuchi et al. to include intercepting straps so as achieve the predictable result of allowing the lateral airbag section to follow the contour of the vehicle's A-pillars.

13. Claims 34 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al. in view of Miodek, JP 2003-182485.

In regards to claims 34 and 35, Naoyuki et al. discloses all of the claimed elements excluding a guide system.

Miodek teaches of a guide system comprising:
a guide system for guiding the lateral ends of the airbag during inflation,
wherein the guide system is connected to the airbag and is provided in the vicinity of the A-pillar;
wherein the guide system has a guide rail on the A-pillar;
wherein a guide part is provided on the guide rail; and,
wherein the guide part is connected to the airbag and is configured to be displaced during inflation of the airbag (Reference is made to Figures 1-4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to try to modify the safety device of Naoyuki et al. in view of the teachings of Miodek to include a guide system so as to achieve the expected result of ensuring proper deployment over the A-pillars, in a reproducible manner and so as to ensure even if a pedestrian contacts the gas bag, it cannot be moved more than slightly from the intended location.

14. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Naoyuki et al. in view of Ryan et al., US Patent 6,712,169.

In regards to claim 37, Naoyuki et al. discloses all of the claimed elements excluding an outflow opening in the airbag.

Ryan et al. teaches of an airbag including at least one outflow opening (50) for energy absorption.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the airbag of Naoyuki et al. in view of the teachings of Ryan et al. to include an outflow opening so as to allow for the controlled dissipation of inflation gas upon impact by a person or other structure.

Conclusion

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BARRY J. GOODEN JR whose telephone number is (571)272-5135. The examiner can normally be reached on Monday-Friday 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Barry J Gooden Jr.
Examiner
Art Unit 3616

BJG

/Christopher Bottorff/
Primary Examiner, Art Unit 3618